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TESTIMONY OF LINDA STRUMPF
IN OPPOSITION TO HB 6372 – AN ACT EXEMPTING FROM
EXECUTION CERTAIN FUNDS IN A JUDGMENT DEBTOR’S ACCOUNT
Banking Committee Public Hearing – February 9, 2021

Good morning Co-Chair Doucette, Co-Chair Kasser, Ranking Members Delnicki and Berthel and distinguished members of the Banking Committee.

I am Linda Strumpf, an attorney practicing out of New Canaan CT and am here today to represent the Connecticut Creditor Bar Association (CCBA) as a member of the Government Affairs Committee, to testify against HB 6372. I will discuss 2 prongs of the bill - why we oppose adding an automatic \$1,000.00 exemption, and extending the exemption to all wages deposited in the account within the last two months, thus eliminating the \$1,000 automatic exemption cap on wages,

OPPOSITION TO ADDITION OF \$1,000 AUTOMATIC BANK EXEMPTION

The proposed bill in its present form, increases the bank exemption to add an automatic \$1,000 exemption to the wildcard exemption of \$1,000.00 (C.G.S.A. 52-352b). This undermines the ability of individuals, small business owners and companies in CT to collect monies owed for items purchased/delivered, services provided or other types of purchases where the purchaser (debtor) has refused to pay - many times for years.

The Collections Procedure in Connecticut

There is an argument that most judgments are obtained by default, thus implying that judgment debtors had no notice regarding the money owed. This could not be further from the truth. Before a small business creditor comes to Court, there is a long history of trying to collect on the debt. Many invoices, dunning letters, and notices are mailed to the debtor first by the small business and then by the attorney, all of which provide the debtor an opportunity to resolve the delinquency without litigation. Only after that, does the attorney commence a lawsuit. When the lawsuit is commenced, the defendant has the opportunity to come into court to contest the debt. In 2016, we agreed to comprehensive amendments to the then existing law for collection of debts which set forth numerous prerequisites which the creditor must comply with in order to obtain a default judgment, including extensive documentation in support of the claim and amount owed.

Consumer Post-Judgment Protections

After the judgment is entered, there is an installment payment order issued for all consumer judgments. The usual amount awarded is \$35.00 per week. The judgment debtor can make an application to the court to lower the amount based on his or her circumstances, and such an application is routinely granted. Sometimes the installment payment order is reduced to as low as \$10.00 per month. The judgment debtor can do this at any time - even a year or two after the judgment is entered. He or she can ask to pay less each week or each month - either by contacting the creditor or by making an application to the court, and that becomes an order of the court. The creditor cannot obtain a bank (or a wage) execution from the Small Claims Court unless the judgment debtor has defaulted on the installment payment order – not matter how small the amount of the payment. This is not the rule in any neighboring state, where the creditor may still proceed with a bank or wage execution while the judgment debtor is making payments.

If the judgment debtor defaults on the installment payment ordered by the court; and the creditor is unable to do a wage execution, then and only then can a creditor apply for a bank execution. Connecticut only allows one active execution to be in place at a time. If a creditor is collecting pursuant to a wage execution, the Court will not issue a bank execution or a property execution.

This is not about those judgment debtors who depend upon their monthly federal benefits to put food on the table, such as senior citizens, the disabled, etc. All of those funds are automatically exempt and they are more than adequately protected by the present law. As clearly set forth in the statute, **all pension and retirement benefits, all Social Security benefits, veterans' benefits, child support and alimony, worker's compensation and unemployment compensation benefits are all automatically exempt.** We are talking about a judgment debtor who has the means to pay, but is evading payment of a valid judgment. That judgment debtor does not have clean hands here - he or she has ignored the debt, the lawsuit, the judgment, the installment payment order, and made no effort to make any payments or to contact the creditor to explain why he or she has not made any payments. Adding an additional \$1,000 automatic exemption, while still permitting the judgment debtor to obtain the additional \$1,000 wildcard exemption, unfairly tilts the scales in favor of the judgment debtor, and doubles the automatic exemption to \$2,000.00.

The CCBA suggests prompt resolution of the wildcard exemption by having the Judiciary schedule an expedited hearing that will act in the best interests of both parties while getting funds released to bank accounts very quickly where necessary, which we had suggested and submitted proposed language in 2019. It is an easy form to claim the wildcard exemption – just check the box.

OPPOSITION TO THE ELIMINATION OF THE \$1,000 CAP ON THE WAGE EXECUTION EXEMPTION

Although never introduced in the prior iterations of this bill, for the first time, the cap of the automatic \$1,000 exemption on wages has now been eliminated. If the \$1,000.00 automatic exemption does not virtually eliminate all wage executions, this certainly would. The funds in most people's bank accounts are from wages. If all wages deposited in a bank account with a two-month look back are exempt, there would be no point in even attempting a bank execution. This would also hurt the state's revenue.

When the \$1,000 wage exemption was added, over and above the wildcard exemption, which the CCBA did not have an opportunity to oppose, many judgment creditors ceased doing bank executions. Now there would be no point to even attempt a bank execution.

CONCLUSION

This bill, if passed, would encourage judgment debtors to ignore court orders to make minimal weekly payments to their judgment creditors, and will virtually eliminate bank executions in this state. This would erode the confidence of the business community in the courts' ability to enforce judgments. It is unfair to small business owners and professionals to allow people who have judgments outstanding for services rendered and or goods purchased to avoid satisfying their legal obligations. This bill would be a disaster for small businesses in this state who depend upon legitimate bank executions to assist them in collecting unsatisfied judgments and can mean the difference between survival and closure. This includes small businesses owned by women (such as my small business and small businesses of many of my clients, such as landscapers, dentists, etc.) and minorities. Sadly, small businesses - which are the source of most jobs in this state - are closing in record numbers in today's tremendously challenging economic environment. This may be the final nail in their coffin.

I request that the Banking Committee not report this bill to the General Assembly. Thank you for your time and attention and for the opportunity to testify.

Respectfully submitted,
Linda Strumpf